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Forty-seventh year

QUESTION OF CYPRUS

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS

Letter dated 7 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Cyprus to the United Nations addressed to the Secretary-General

I have the honour to transmit to you extracts from the report of the European Commission of Human Rights, Application No. 8007/77, Cyprus vs. Turkey, that was adopted by the Commission on 4 October 1983. The Committee of Ministers of the Council of Europe decided on 2 April 1992 to make public the report and its findings (see annex).

I shall be very grateful if the text of the present letter and its annex is circulated as a document of the General Assembly, under items 45 and 99 of the preliminary list, and of the Security Council.

(Signed) Petros EFTYCHIOU
Chargé d'affaires a.i. of the
Permanent Mission of the
Republic of Cyprus to the
United Nations

* A/47/50.

ANNEX

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

EUROPEAN COMMISSION OF HUMAN RIGHTS

Application No. 8007/77

CYPRUS

against

TURKEY

Report of the Commission

(Adopted on 4 October 1983)

STRASBOURG

PART I - GENERAL

Chapter 1 - Application of Arts 28 and 31 of the Convention in the circumstances of the present case

48. The Commission, noting the respondent Government's refusal to participate in the proceedings provided for by Art 28 of the Convention (1), confirms the following observations made at paras 38 to 44 of its Interim Report (cf para 28 above).

"38. The respondent Government, after having taken part, together with the applicant Government, in the Commission's proceedings on the admissibility of the application, refuse to participate in the present proceedings on the merits, particularly on the ground already advanced at the stage of admissibility that the application was not lodged with the Commission by a competent authority of the Republic of Cyprus.

39. The Commission recalls that, as stated in the Preamble, the High Contracting Parties have in the Convention taken 'the first steps for the collective enforcement' of the rights defined in Section I of the Convention and that, under Art 19, they have set up the Commission and the Court for this purpose. A system of collective protection of human rights, as established by the Convention, requires, in order to be effective, the co-operation with the Commission of all High Contracting States concerned in a case. This is reflected in Art 28 para (a) of the Convention, which expressly obliges the parties to an admitted application to 'furnish all necessary facilities' for the Commission's investigation.

40. The Commission cannot accept the respondent Government's statement, that they do not recognise the applicant Government as the Government of Cyprus, as a ground which could absolve Turkey from its obligation to co-operate with the Commission in the present proceedings. The Commission has already stated in its decision on the admissibility that the Convention establishes a system of collective enforcement and that an application brought under Art 24 does not of itself envisage any direct rights or obligations between the High Contracting Parties concerned.

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(1) See above paras 19, 23, 27, 31, 35, 39 and 41 in fine.

41. The respondent Government maintain that Turkey cannot be obliged to recognise the applicant Government as representing the Republic of Cyprus. They have also submitted that Art 28 of the Convention, which governs the procedure on the merits of an admitted application, requires direct contacts between the parties concerned.

42. The Commission observes, firstly, that its decision admitting the present application is conclusive on the Parties and, secondly, that the question of the recognition of the applicant Government by the respondent Government does not arise at the proceedings on the merits. Commission proceedings under Art 28 do not necessitate direct contacts between the parties concerned.

43. The Commission considers further that to accept that a Government may void 'collective enforcement' of the Convention under Art 24, by asserting that they do not recognise the Government of the applicant State, would defeat the purpose of the Convention.

44. The Commission finally notes that the respondent Government, while not recognising the applicant Government as Government of Cyprus, nevertheless participated as a Party concerned, under Art 32, and submitted a memorandum, in the Committee of Ministers' examination of the merits of the two previous applications (N°s 6780/74 and 6950/75) by Cyprus against Turkey. Those proceedings were, like the present one, governed by the Convention."

49. The Commission also confirms its opinion, stated at para 45 of the Interim Report "that, by its refusal to participate in the Commission's examination of the merits of the present application, Turkey has so far failed to respect its obligations under Art 28 of the Convention" and it recalls that it requested the Committee of Ministers "to urge Turkey, as a High Contracting Party to the European Convention on Human Rights, to meet its obligations under this Convention and accordingly to participate in the Commission's examination of the merits of the present application, as required by Art 28" (para 48 of the Interim Report).

50. The Commission notes the Decision adopted by the Committee of Ministers during the 326th meeting of the Ministers' Deputies (24 November to 4 December 1980) in which the Committee, having taken cognizance of the Commission's Interim Report, "Recalls the obligations imposed on all the Contracting Parties by Article 28 of the European Convention for the Protection of Human Rights and Fundamental Freedoms." (cf para 29 above).

/...

51. The respondent Government nevertheless did not comply with the Commission's subsequent invitations to file observations and to appear at a hearing (1).

52. The Commission has already stated in the two previous applications by Cyprus against Turkey that a respondent party's failure to co-operate in proceedings under Art 28 does not prevent it from completing, as far as possible, its examination of the application and from making a Report to the Committee of Ministers under Art 31 of the Convention (2). In those applictions the Commission, in the absence of any submissions by the respondent Government on the merits of the complaints, accordingly "proceeded with its establishment of the facts on the basis of the material before it" (3).

53. In the present case the Commission, adopting the same procedure, has again based its Report on the material before it, including the submissions made by the Parties on the admissibility of the application. In this connection it has also considered Annex I to the respondent Government's observations on the admissibility, a document entitled "Observations by Mr R.R. Denktash, President of the Turkish Federated State of Cyprus". The Commission's notice of this document does not imply any view on the position of Mr Denktash, other than that his observations, as reproduced therein, are considered as forming part of those of the respondent Government (4).

(1) Cf. supra par. 30, 31, 34, 35, 38, 39 et 41 in fine
(2) Rapport du 10 juillet 1976, par. 55
(3) Ibid. par. 79
(4) Cf. également infra par. 63

Chapter 3 - Responsibility of Turkey under the Convention

63. In its decision on the admissibility of the present application, the Commission, confirming its finding in the previous case, stated that the Turkish armed forces in Cyprus brought any persons or property there "within the jurisdiction" of Turkey, in the sense of Art 1 of the Convention, to the extent that they exercised control over such persons or property. The Commission further observed that Cyprus had since 1974 been prevented from exercising its jurisdiction in the northern part of its territory by the presence there of armed forces of Turkey; that the recognition by Turkey of the Turkish Cypriot administration in that area as "Turkish Federated State of Cyprus" did not, according to the respondent Government's own submissions, affect the continuing existence of the Republic of Cyprus as a single State; and that, consequently, the "Turkish Federated State of Cyprus" could not be regarded as an entity which exercised "jurisdiction", within the meaning of Art 1 of the Convention, over any part of Cyprus. The Commission concluded that Turkey's jurisdiction in the north of the Republic of Cyprus, existing by reason of the presence of her armed forces there which prevented exercise of jurisdiction by the applicant Government, could not be excluded on the ground that jurisdiction in that area was allegedly exercised by the "Turkish Federated State of Cyprus".

64. The Commission does not find it necessary to add anything to its above observations as regards the imputability to Turkey of any particular violation of the Convention by her own armed forces which may be established in Parts II and III of this Report. As to violations of the Convention by acts of the Turkish Cypriot administration the Commission considers that, as submitted by the applicant Government (1), the existence of some kind of civil administration in northern Cyprus does not exclude Turkish responsibility given the degree of control which Turkey has in northern Cyprus. In particular, the Commission is satisfied that fundamental changes of the conditions in northern Cyprus cannot be decided without the express or tacit approval of the Turkish authorities.

65. As in the previous case (2), the Commission finally observes in this connection that the substance of the present application required it to confine its investigation essentially to acts and incidents for which Turkey, as a High Contracting Party, might be held responsible. Alleged violations of the Convention by Cyprus could be taken into account as such only if Turkey or another High Contracting Party had raised them in an application to the Commission under Art 24 of the Convention.

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(1) Verbatim record of the hearing of 7 March 1983, p 32.

(2) Report of 10 July 1976, para 85.

Chapter 4 - Art 15 of the Convention

66. The Commission has in the previous case (1) considered whether there was a basis for applying Art 15 of the Convention:

- with regard to the northern area of Cyprus, and/or

- with regard to provinces of Turkey where Greek Cypriots were detained.

67. The Commission then:

- concluded that it could not, in the absence of some formal and public act of derogation by Turkey, apply Art 15 of the Convention to measures taken by Turkey with regard to persons or property in the north of Cyprus (2);

- considered that certain communications made by Turkey under Art 15 (3) with regard to certain provinces including the Adana region, in which martial law was declared, could not, within the conditions prescribed in Art 15, be extended to cover the treatment of persons brought into Turkey from the northern area of Cyprus. The Comaission concluded that it could not apply Art 15 to the treatment by Turkey of Greek Cypriot prisoners brought to and detained in Turkey (3).

68. The Commission confirms these conclusions in the present case.

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(1) Report of 10 July 1976, para 524.

(2) Ibidem para 528.

(3) Ibidem paras 529 - 531.

Chapter 4. - Opinion of the Commission

116. The Commission observes that it has in the present case re-examined the issue of missing persons on the basis of fresh evidence offered by the applicant Government; the verbatim record of the Delegates' hearing of witnesses was communicated to the respondent Government who were, like the applicant Government, given the opportunity of submitting observations on this new evidence (cf paras 38, 39, 95 above). The Commission considers that the factual information now before it concerning the issue of missing persons is more detailed and direct than in the previous applications and thus offers a better basis for the examination of this question.

117. In its evaluation of this evidence the Commission has found it established in three of five cases investigated, and has found sufficient indications in an indefinite number of cases (para 115 above), that Greek Cypriots, who are still missing, were in Turkish custody in 1974. It considers that this creates a presumption of Turkish responsibility for the fate of these persons and notes with concern that no relevant information has been provided by the Turkish authorities.

118. The Commission notes that the families of these missing persons have been without news from them for nearly nine years and that this is due to the respondent Government's failure to account for the fate of these persons in their custody. It finds that the resulting uncertainty has caused severe suffering to these families who are entitled under the Convention to be informed of the situation of their close relatives (1).

119. The wording of Art 5, in particular para (1), second sentence, para (3) first sentence, and para (4), shows in the Commission's view that any deprivation of liberty must be subject to control and that any unaccounted disappearance of a detained person must be considered as a particularly serious violation of this Article, which can also be understood as a guarantee against such disappearances.

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(1) The Commission here refers to Resolution DH (82) 1, adopted by the Committee of Ministers in Applications Nos 8022/77, 8025/77 and 8027/77 - McVeigh and others v. the United Kingdom - on 27 March 1982, in which it was held (at the penultimate paragraph) that there had been a breach of Art 8 of the Convention "insofar as the applicants McVeigh and Evans were prevented from contacting their wives during detention".

120. The evidence before the Commission is limited in time to the situation of missing Greek Cypriots in the second half of 1974, i.e. nine years ago (1). The applicant Government submit (para 72) that a considerable number were seen alive in detention in Turkey more recently, but no evidence has been adduced in support of this allegation.

121. The Commission cannot exclude that missing persons found to have been in Turkish detention in 1974 have died in the meanwhile but, on the material before it, it cannot make any finding as to the circumstances in which such deaths may have occurred.

122. The Commission finds no justification, in the circumstances of the present case, for detaining any of these missing persons. It observes that its statement concerning prisoners of war, at para 313 of its Report in the previous case, related only to initial detention during or immediately following the hostilities, which were terminated on 16 August 1974.

Conclusion

123. The Commission, having found it established in three cases, and having found sufficient indications in an indefinite number of cases, that Greek Cypriots who are still missing were unlawfully deprived of their liberty, in Turkish custody in 1974, noting that Turkey has failed to account for the fate of these persons, concludes by 16 votes against one that Turkey has violated Art 5 of the Convention.

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(1) With the exception of case N° 1410, referred to at para 109 above.

PART III - REMAINING COMPLAINTS

Chapter 1 - Displacement of Persons and Separation of Families

(a) Submissions

(aa) Applicant Government

124. The applicant Government allege(1) that Turkey:

- prevents about 200,000 Greek Cypriots from returning to their homes in the North; and

- forces the remaining Greek Cypriots in the North to leave their homes and to take refuge in the south: between 18 May 1976 and 10 February 1983 "about 7,000 Greek Cypriots were forced to sign applications to leave the occupied area". The Government speak of "inhuman methods used to force the remaining Greek Cypriot inhabitants of the occupied area to leave that area (e.g. restrictions on movement, education and work threats, violence etc.)" and state that, according to the U.N. Secretary-General's Report of 1 December 1982 (S/15502, para 26), the Greek Cypriot population in the occupied area amounted, at that time, to 952 persons; on 10 February 1983 it amounted to 940.

The applicant Government submit that the above facts constitute "continuous violations of Art 8 of the Convention. Furthermore, the methods used to force the remaining Greek Cypriot inhabitants of the occupied area of Cyprus amount to violations of" Arts 3 to 5, 8, 11 and 14 of the Convention and Arts 1 and 2 of Protocol N°1.

125. The applicant Government further allege (2) that systematic colonisation of the occupied area of Cyprus has been effected by the settlement of Turks from mainland Turkey who acquire the status of "Turkish Cypriot citizens". These settlers seized and occupied the houses and lands of the Greek Cypriots, exploited their fields and stole their agricultural produce, and harassed, by various inhuman methods and activities, the remaining Greek Cypriot population in the North, thus forcing them to leave and move to the Government controlled area. The colonisation was carried out in furtherance of the Turkish policy of altering the racial balance of the island and

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(1) Final submissions of 10 February 1983, para 47.

(2) Final submissions paras 57-60.

changing the demographic pattern of Cyprus by converting the occupied area into an exclusively Turkish populated area on a permanent basis. Since the Turkish invasion about 63,000 Turks from the mainland have settled in the occupied area.

The applicant Government submit that this colonisation constitutes continuing violations of Arts 3, 5, 8, 13, 14 and of Art 1 of Protocol N° 1 to the Convention.

126. The applicant Government, quoting reports of the UN Secretary General of 1976-82, finally allege (1) that the above measures of displacement of Greek Cypriots (para 124 above) caused separation of families in a substantial number of cases.

They invoke Art 8 of the Convention and refer to para 211 of the Commission's Report on the two previous applications.

(1) Final submissions para 66.

(b) Opinion of the Commission

130. The Commission recalls that the issue of displacement of persons was examined under Art 8 of the Convention in Part II, Chapter 1, of its Report on Applications N°s. 6780/74 an 6950/75. The Commission then also noted (at paras 92 et seq), when examining the question of displacement of persons, the applicant Government's allegations concerning a compulsory exchange of population and information as to the settlement of Turkish Cypriots and Turkish settlers in the North (para 94).

131. The Commission considered in the previous case (at para 208) "that the prevention of the physical possibility of the return of Greek Cypriot refugees to their homes in the north of Cyprus amounts to an infringement, imputable to Turkey, of their right to respect of their homes" which could not be justified on any ground under para (2) of Art 8. It concluded that, "by the refusal to allow the return of more than 170,000 Greek Cypriot refugees to their homes in the north of Cyprus, Turkey did not act, and was continuing not to act, in conformity with Art 8 of the Convention in all these cases."

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(1) Cf para 53 above.

The Commission further considered (at para 210), with regard to Greek Cypriots transferred to the south under various intercommunal agreements, that the prevention of the physical possibility of the return of these Greek cypriots to their homes in the north of Cyprus generally amounted to an infringement, imputable to Turkey and not justified under para (2), of their right to respect for their homes under para (1) of Art 8. It concluded that, "by the refusal to allow the return to their homes in the north of Cyprus to several thousand Greek Cypriots who had been transferred to the South under intercommunal agareements, Turkey did not act, and was continuing not to act, in conformity with Art 8 of the Convention in all these cases."

132. The Commission finally recalls that it examined the issue of separation of families under the heading "Displacement of persons" in its Report on Applications N°s 6780/74 and 6950/75. It then found:

- that the separation of Greek Cypriot families resulting from measures of displacement imputable to Turkey under the Convention must also be imputed to Turkey. The continued separation of families resulting from Turkey's refusal to allow the return of Greek Cypriot refugees to their family members in the North, the separation of families brought about by expulsions of family members across the demarcation line, or by transfers of members of the same family to different places of detention, must therefore be imputed to Turkey (para 205); and

- that the separation of families brought about by measures of displacement imputable to Turkey were interferences, with the right of the persons concerned to respect for their family life as guaranteed by para (1), which could not be justified on any ground under para (2) of Art 8 (para 211).

The Commission then concluded (at para 211) that, by the separation of Greek Cypriot families brought about by measures of displacement in a substantial number of cases, Turkey had not acted in conformity with her obligations under Art 8 of the Convention.

133. In the present case the Commission, again examining the issue of displaced persons under Art 8 of the Convention, confirms the finding made, at para 168 of its Report on the previous applications, that displaced Greek Cypriots in the South are physically prevented from returning to the northern area as a result of the fact that the demarcation line across Cyprus ("green line" in Nicosia) is sealed off by the Turkish army. This fact of common knowledge is not disputed by the respondent Government (cf para 127 above). /...

134. The Commission finds that the continuation of this situation, since the adoption of its Report on the first two applications on 10 July 1976, must in the circumstances of the present case be considered as an aggravating factor.

135. The Commission concludes, by 13 votes against two with two abstentions that, by her continued refusal to allow over 170,000 Greek Cypriots the return to their homes in the North of Cyprus, Turkey continues to violate Art 8 in all these cases.

136. The Commission further finds that the continued separation of families resulting from Turkey's refusal to allow the return of Greek Cypriots to their family members in the North must in the circumstances of the present case be considered as an aggravating factor.

It concludes, by 14 votes against two and with one abstention, that, in the cases of continued separations of families resulting from Turkey's refusal to allow the return of Greek Cypriots to their family members in the North, Turkey continues to violate Art 8 of the Convention.

(b) Opinion of the Commission

148. As regards the displacement of the overwhelming majority of the Greek Cypriot population from the northern area, where it left behind movable and immovable possessions, and the established fact that these displaced persons are not allowed to return to their homes in the North, and thus to property left there, the Commission refers to its above findings under the heading "Displacement of Persons" (paras 132 et seq).

149. As to immovable property, the Commission further recalls that, in its Report on Applications N°s 6780/74 and 6950/75, it found (at para 472) elements of proof of taking and occupation of houses and land by Turkish Cypriots and Turks from the mainland, both military personnel and civilians. The Commission then observed (at para 473) that about 40,000 Turkish Cypriots originally residing in the South had, from 1974 onwards , moved gradually to the North of the Island, where accommodation had to be found for them. That supported allegations concerning the occupation on a considerable scale of houses and land in the North belonging to Greek Cypriots, and the establishment of an office for housing to regulate the distribution. The Commission therefore accepted the evidence obtained as establishing the taking and occupation of houses and land belonging to Greek Cypriots (para 474). The Commission also found strong indications that Turks from the mainland had settled in the North in houses belonging to Greek Cypriots (para 476) and it found it established that agricultural, commercial and indistrial enterprises were taken out of the hands of Greek Cypriots (para 477) and that hotels were put into operation in the northern area (para 478).

150. As to movable property, the Commission recalls its finding, at para 481 of its Report on Applications N°s 6780/74 and 6950/75, that looting and robbery on an extensive scale, by Turkish troops and Turkish Cypriots have taken place.

151. The Commission finally recalls its finding in Applications N°s 6780/74 and 6950/75 (at para 48 of its Report) that destruction of property had taken place in many cases.

152. The Commission concluded in Applications N°s 6780/74 and 6950/75 (at para 486 of its Report) that there had been deprivation of possessions of Greek Cypriots on a large scale, imputable to Turkey and not necessary for any of the purposes mentioned in Art 1 of Protocol N° 1.

153. In its examination of the complaints concerning interference with possessions in the present case, the Commission notes that, since the adoption of its Report in the previous applications, deprivation of property of Greek Cypriots in the North of the Island has been confirmed by what is referred to by the applicant Government as the "Law to Provide for the Housing and Distribution of Land and Property of Equal Value" of 16 August 1977. There have also been interferences with property rights of some 7,000 Greek Cypriots who since 18 May 1976 (when the Commission terminated its investigation in the first two applications) have moved to the South (cf above para 124 in fine). The Commission observes that the occupation and taking of Greek Cypriot property in the North is not disputed by the respondent Government (cf para 143 above).

154. The Commission is of the opinion that the measure described of 16 August 1977 consolidates the earlier occupation of immovable property and for that reason constitutes a violation of Art 1 of Protocol N° 1. In addition it is not disputed that new takings of movable property occurred after the adoption of the Report of the Commission of 10 July 1976.

155. The Commission concludes, by 13 votes against one and with three abstentions, that Turkey has violated Art 1 of Protocol N° 1.

Chapter 3. - Absence of Remedies

(a) Submissions

156. The applicant Government submit (1) that, throughout the relevant period, there was no effective relevant remedy in the Turkish courts or before any authority in the Turkish occupied area of Cyprus or in Turkey in respect of any of the violations complained of. According to the so-called "Constitution of the TFSC" practically all the human rights of the Greek Cypriots that have been violated are not even recognised.

The applicant Government invoke Arts 6 and 13 of the Convention.

157. The respondent Government, at Annex I (para 73) to their observations on the admissibility (2), submitted that all cases of offences committed against Greek Cypriots living in the North of Cyprus and their properties, which come to the knowledge of the authorities of the Turkish Federated State of Cyprus, are investigated and referred to courts. Severe sentences were imposed on a number of persons convicted for serious criminal offences committed during 1976 on Greek Cypriots living in the North.

(b) Opinion of the Commission

157. In its decision on the admissibility the Commission found under Art 26 of the Convention (at para 39 of The Law) "that the remedies indicated by the respondent Government cannot, for the purposes of the present application, be considered as relevant and sufficient and that they need not, therefore, be exhausted."

158. The Commission, in its examination of the merits of this complaint, does not find it necessary to add anything to its finding in the decision on admissibility.

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(1) Final submissions paras 91 et seq.

(2) Cf para 53 above.

Chapter 4. - Discrimination

(a) Submissions

159. The applicant Government submit (1) that, in as much as the above violations were directed against members of one of the two communities in Cyprus, namely the Greek Cypriot community because of their ethnic origin, race and religion, the respondent Government should be found responsible for continuing violations of Art 14 of the Convention in failing to secure the rights and freedoms set forth in the Convention without discrimination on the grounds of ethnic origin, race and religion as required by that Article.

160. The respondent Government did not participate in the proceedings on the merits.

(b) Opinion of the Commission

161. The Commission recalls that, in its Report on Applications Nos 6780/74 and 6950/75 (at para 503), having found violations of a number of Articles of the Convention, it noted that the acts violating the Convention were exclusively directed against members of one of the two communities in Cyprus, namely the Greek Cypriot community. The Commission then concluded that Turkey had thus failed to secure the rights and freedoms set forth in these Articles without discrimination on the grounds of ethnic origin, race and religion as required by Art 14 of the Convention.

162. Having again found violations of the rights of Greek Cypriots under a number of Articles of the Convention in the present case, the Commission does not consider it necessary to add anything to its finding under Art 14 in the previous case.

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(1) Final submissions para 97.

Chapter 5. - Position of Turkish Cypriots

163. The applicant Government allege (1) that, during the relevant period, Turkey committed continuous violations of the rights of the Turkish Cypriots living in the occupied area by her policy and operation of colonisation and her policy and measures of segregation by the force of arms of the two communities within the Cyprus population on the basis of what came to be known as the "Attila line". These violations fall under two categories: various systematic acts of violence, threats, insults, and other oppressive acts by Turkish settlers from Turkey, encouraged and or countenanced by the presence of the Turkish troops, and prevention of any return by Turkish Cypriots, who were transferred from the Government controlled area in 1974-75 to the occupied area, to their homes and properties in the Government controlled area and denial of any exercise of their rights in respect of such property. In respect of both the above categories of violations no effective remedy before any authority exists.

The applicant Government submit that the above facts constitute continuous violations of Arts 3, 5, 6 and 8 of the Convention and Art 1 of Protocol N° 1.

164. The respondent Government, at Annex I (para 91) of their observations on the admissibility (1), submitted that the above complaint was "another example of the insincere and dishonest way in which those who have tried to annihilate the Turkish Community and have caused them to suffer all sorts of hardships, now, for purely propaganda purposes, express false and mock concern for the well-being of the Turkish Cypriots."

165. The Commission, having regard to the material before it, finds that it does not have sufficient available evidence enabling it to come to any conclusion regarding this complaint.

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(1) Final submissions paras 98 et seq.

PART IV - CONCLUSIONS

The Commission,

Having examined the allegations in this application (see Parts II and III above);

Having found that Art 15 of the Convention does not apply (see Part I, Chapter 4);

Arrives at the following findings and conclusions:

1. Missing persons (para 123 above)

The Commission, having found it established in three cases, and having found sufficient indications in an indefinite number of cases, that Greek Cypriots who are still missing were unlawfully deprived of their liberty, in Turkish custody in 1974, noting that Turkey has failed to account for the fate of these persons, concludes by 16 votes against one that Turkey has violated Art 5 of the Convention.

2. Displacement of persons and separation of families (paras 135, 136 above)

The Commission concludes, by 13 votes against two with two abstentions that, by her continued refusal to allow over 170,000 Greek Cypriots the return to their homes in the North of Cyprus, Turkey continues to violate Art 8 in all these cases.

The Commission further concludes by 14 votes against two and with one abstention, that, in the cases of continued separation of families resulting from Turkey's refusal to allow the return of Greek Cypriots to their family members in the North, Turkey continues to violate Art 8 of the Convention.

3. Deprivation of possessions (para 155 above)

The Commission concludes, by 13 votes against one and with three abstentions, that Turkey has violated Art 1 of Protocol N° 1.

4. Absence of remedies (para 158 above)

The Commission, in its examination of the merits of this complaint, does not find it necessary to add anything to its finding in the decision on admissibility.

5. Discrimination (para 162 above)

Having again found violations of the rights of Greek Cypriots under a number of Articles of the Convention in the present case, the Commission does not consider it necessary to add anything to its finding under Art 14 in the previous case.

6. Position of Turkish Cypriots (para 165 above)

The Commission, having regard to the material before it, finds that it does not have sufficient available evidence enabling it to come to any conclusion regarding this complaint.

Secretary to the Commission

(H.C. KRUGER)

President of the Commission

(C.A. NØRGAARD)

S/23888

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GENERAL ASSEMBLY
Forty-sixth session
Agenda item 68
REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 7 May 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Finland to the United Nations addressed to the Secretary-General

On behalf of the Nordic Governments I have the honour to transmit to you herewith a statement by the Nordic Foreign Ministers on the situation in former Yugoslavia, issued at their meeting in Helsinki on 4 May 1992.

As regards the position of the Nordic countries concerning the "Federal Republic of Yugoslavia", reference is made to the third paragraph in the above-mentioned statement.

I would be grateful if you would have the present letter and the attached statement circulated as an official document of the General Assembly, under agenda item 68, and of the Security Council.

(Signed) Tauno KÄÄRIÄ
Deputy Permanent Representative
of Finland
Chargé d'affaires a.i.

ANNEX

Statement by the Nordic Foreign Ministers on the situation in former Yugoslavia issued at Helsinki on 4 May 1992

The Foreign Ministers condemned the escalation of violence in Bosnia-Hercegovina. They urged all parties to abstain from the use of force and apply only peaceful means to achieve political goals. The Ministers stressed that the international community would not accept a situation brought about by force.

The Ministers objected in particular to the unscrupulous use of heavy weapons by the so-called Yugoslav National Army against the capital of Bosnia-Hercegovina and other populated areas. The Yugoslav National Army has clearly and flagrantly breached the principles of the Conference on Security and Cooperation in Europe (CSCE) and of international law by operating on the territory of the independent State of Bosnia-Hercegovina and particularly by detaining the President of Bosnia-Hercegovina. The Yugoslav National Army must withdraw from Bosnia-Hercegovina.

The question of the recognition of the "Federal Republic of Yugoslavia" recently formed by Serbia and Montenegro should be solved in the same manner as in the case of the other republics - Slovenia, Croatia, Bosnia-Hercegovina and Macedonia - on the basis of the principles of the Brussels Conference. The issue of succession should be solved within the framework of the Peace Conference by all States on the territory of a disintegrated Yugoslavia.

The Ministers consider it essential that the "Federal Republic of Yugoslavia" adhere to the principles of CSCE in a credible manner, particularly concerning non-intervention in internal affairs, inviolability of frontiers and respect for the rights of minorities.

The Foreign Ministers gave their full support to the Peace Conference on Yugoslavia under the auspices of the European Economic Community (EEC) as well as to EEC's efforts to contribute to a peaceful solution of the situation in Bosnia-Hercegovina. They condemned the fatal shooting of the Belgian observer Major Bertrand Borrey and expressed their deepest sympathy to his family.

The Nordic countries consider it important that CSCE continue to exert efforts to achieve a calmer situation in Bosnia-Hercegovina. The Nordic Foreign Ministers consider that developments in former Yugoslavia confirm that CSCE's executive capacity should be strengthened and that CSCE should also acquire a peace-keeping role on the European continent, in cooperation with other international organizations.

The Foreign Ministers urged all parties to support the efforts of the Secretary-General of the United Nations. They urged those responsible to allow the transportation of international emergency aid to those affected by the fighting and to enable refugees to return to their homes.

The Ministers reaffirmed their willingness to work for a future in a democratic society for the peoples in former Yugoslavia who have liberated themselves from dictatorship. This is the only way to bring about a just solution to the antagonisms in the region and a future in peace and prosperity.